

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Judge McMahon

UNITED STATES OF AMERICA

SEALED
INDICTMENT

-v-

CHARLES GIUSTRA,
VINCENT DIMINO, and
JOSEPH ANTICO,

Defendants.

13 Cr. **13 CRIM 014**

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/9/13

COUNT ONE

(Conspiracy to Traffic Contraband Cigarettes)

The Grand Jury charges:

1. From in or about December 2010, up to and including in or about December 2011, in the Southern District of New York and elsewhere, CHARLES GIUSTRA, VINCENT DIMINO, and JOSEPH ANTICO, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Title 18, United States Code, Section 2342(a).

2. It was a part and an object of the conspiracy that CHARLES GIUSTRA, VINCENT DIMINO, and JOSEPH ANTICO, the defendants, and others known and unknown, knowingly would and did ship, transport, receive, possess, sell, distribute, and purchase contraband cigarettes, as that term is defined in Title 18, United States Code, Section 2341, in violation of Title 18, United States Code, Section 2342(a).

OVERT ACTS

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about December 13, 2010, CHARLES GIUSTRA and VINCENT DIMINO, the defendants, purchased approximately 60,000 contraband cigarettes in Lyndhurst, New Jersey from an individual cooperating with the Government ("CW-1") for \$7,800.

b. On or about July 5, 2011, CHARLES GIUSTRA and JOSEPH ANTICO, the defendants, purchased approximately 36,000 contraband cigarettes in Lyndhurst, New Jersey and Staten Island, New York from CW-1 for \$4,800.

c. On or about December 19, 2011, CHARLES GIUSTRA, the defendant, met with CW-1 in New York, New York to discuss a contraband cigarette transaction.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Narcotics Trafficking Conspiracy)

The Grand Jury further charges:

4. From in or about July 2011, up to and including in or about December 2011, in the Southern District of New York and elsewhere, CHARLES GIUSTRA, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire,

confederate and agree together and with each other to violate the narcotics laws of the United States.

5. It was a part and an object of the conspiracy that CHARLES GIUSTRA, the defendant, and others known and unknown, would and did distribute and possess with the intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1).

6. The controlled substance involved in the offense was 500 grams and more of mixtures and substances containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, in violation of 21 U.S.C. § 841(b)(1)(B).

(Title 21, United States Code, Section 846).

COUNT THREE

(Conspiracy to Transport Stolen Property Interstate)

The Grand Jury further charges:

7. From at least September 27, 2010, up to and including on or about October 4, 2010, in the Southern District of New York and elsewhere, CHARLES GIUSTRA, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, to violate Section 2314 of Title 18 of the United States Code.

8. It was a part and an object of said conspiracy that CHARLES GIUSTRA, the defendant, and others known and unknown, would and did transport, transmit, and transfer in

interstate and foreign commerce goods, wares, merchandise, securities and money, or the value of \$5,000 and more, knowing the same to have been stolen, converted, and taken by fraud, in violation of Title 18, United States Code, Section 2314.

OVERT ACTS

9. In furtherance of the conspiracy and to effect the illegal object thereof, the following over acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about the late evening of September 30, 2010 up through and including the early morning of October 1, 2010, at least two co-conspirators not charged herein stole a hot dog cart from Orangeburg, New York.

b. On or about October 4, 2010, CHARLES GIUSTRA, the defendant, discussed in a recorded conversation with CW-1 that GIUSTRA only received \$2,500 for the stolen hot dog truck.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATION AS TO COUNTS ONE AND THREE

10. As a result of committing one or more of the Conspiracy to Traffic Contraband Cigarettes and Conspiracy to Transport Stolen Property Interstate offenses charged in Counts One and Three of this Indictment, in violation of Title 18, United States Code, Section 371, CHARLES GIUSTRA, VINCENT DIMINO, and JOSEPH ANTICO, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c),

any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the Conspiracy to Traffic Contraband Cigarettes and Conspiracy to Transport Stolen Property Interstate offenses.

Substitute Asset Provision

11. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981; Title 21, United States Code, Section 853(p);
and Title 28, United States Code, Section 2461.)

FORFEITURE ALLEGATION AS TO COUNT TWO

12. As a result of committing the controlled substance offense charged in Count Two of this Indictment, CHARLES GIUSTRA,

the defendant, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting or derived from any proceeds the defendant obtained directly or indirectly as a result of the offense and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the offense charged in Count Two of this Indictment.

Substitute Asset Provision

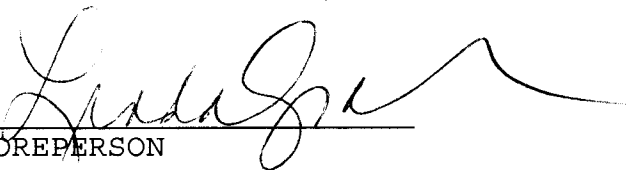
13. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

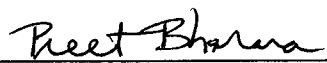
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) to seek forfeiture of any

other property of the said defendant up to the value of the above forfeitable property.

(Title 21, United States Code, Section 853(p).)


FOREPERSON


PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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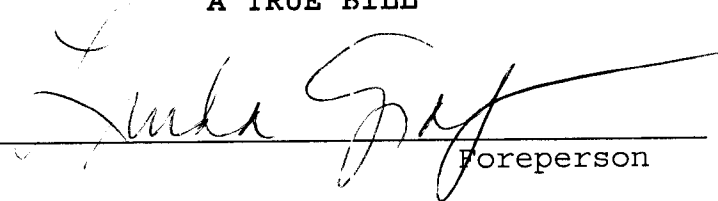
13 Cr.

(Title 18, United States Code, Section
371, and Title 21, United States Code,
Section 846.)

PREET BHARARA

United States Attorney.

A TRUE BILL


Foreperson

1/9/13 F/d Indictment under seal. A/w/s issued.

Pirman, USMJ.

